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# Senator Dianne Feinstein

*of California*

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## **Senator Feinstein/Rep. Roybal-Allard Introduce Legislation to Assist Family Facing Deportation** December 9, 2003

**Washington, DC** – Senator Dianne Feinstein (D-Calif.) and Rep. Lucille Roybal-Allard (D-Los Angeles) today announced legislation that would grant permanent resident status to members of the Cabrera family who have been facing possible deportation and a break up of their family in three different countries.

**“Benjamin Cabrera and his wife, Londy, face deportation to Mexico and Guatemala, respectively, while their two children, 11-year-old Diana and 9-year-old Jocelyn, who were both born in the United States and are citizens, could be forced to move to a foreign country with one or the other of their parents or remain here in the United States, possibly with their grandparents,”** Senator Feinstein said. **“Both girls are especially gifted academically and Diana earned a scholarship last year to attend a four-year math and science summer program at Johns Hopkins University. It is clear to me that this family has embraced the American dream, and their continued presence in our country would enhance the values we hold dear. For the family to be split up in three different countries would be a tragedy.”**

**“Given the desperate circumstances of the Cabrera family, Senator Feinstein and I joined forces this week to introduce legislation in both chambers of Congress to help these hard-working immigrants. Although the family's legal case remains on appeal, the legislation is one more possible remedy to help the parents of an exceptionally bright U.S.-born student to stay in this country where her extraordinary talents can fully develop. The Cabrerases are devoted, hardworking, parents who make positive contributions to our community. As we enter a new session in Congress in January, I hope my colleagues on both sides of the aisle will support our legislative effort to keep the family together and allow the Cabrerases to raise both children in their native land,”** Representative Roybal-Allard said.

The legislation would grant lawful permanent residence status to Benjamin Cabrera-Gomez, who immigrated into the United States without documentation in the 1980s from Mexico and his wife, Londy Patricia Hidalgo Mazariegos, who immigrated from Guatemala. Both have lived in the United States since they were teenagers.

The family has a close relationship with their relatives in the United States. Londy has

two U.S. citizen brothers, her mother is a lawful permanent resident, and all live nearby. Benjamin's parents are both lawful permanent residents who live in Southern California. He has nine brothers and sisters who also live in the area.

Benjamin helps to care for his mother, who is seriously ill with diabetes and has had three toes amputated. She stays with the family several days a week, and Benjamin supports her, along with his siblings. Benjamin obtained a high school diploma in Mexico at age fifteen. He has worked as a waiter for thirteen years. Londy has only recently become employed as a teacher's aide at her daughter's school. Previously, she was a homemaker.

### **Immigration Court Decision**

On March 29, 2002, the Cabrerases were granted cancellation of removal in the Los Angeles Immigration Court. An immigration court may grant cancellation of removal if the alien can show that his or her removal would cause exceptional and extremely unusual hardship to the alien's spouse, parent, or child, who is a U.S. citizen or lawful permanent resident.

The Department of Homeland Security's District Counsel appealed the immigration judge's grant of cancellation to the Board of Immigration Appeals.

On September 22, 2003, the Board vacated the immigration judge's decision stating that "diminished educational opportunities in the parent's home country does not rise to a level of exceptional and extremely unusual hardship." The Cabrera family's attorney, Carl Shusterman, filed an appeal of the Board's decision to the Ninth Circuit arguing that the Board's decision represented a departure from previous decisions which have consistently held that the relevant hardship factors are to be considered in the aggregate, or for their cumulative impact.

The attorney argued that the Board failed to consider the extraordinary nature of the eldest daughter Diana's educational achievements. Furthermore, the Board did not consider other factors in the family's case:

- Diana and Jocelyn's parents will be removed to separate countries, thus they will not only have to leave their home country, but they may also be separated from at least one of their parents.
- Diana and Jocelyn have a close relationship to their grandparents, aunts and uncles who reside lawfully in the United States, a factor which has been considered significant in prior Board decisions.
- The hardship that the three lawful permanent resident parents of Benjamin and Londy would suffer if they were separated from both their children and grandchildren of an indefinite period of time.
- Benjamin and Londy provide care for his lawful permanent resident mother who suffers from diabetes and has undergone surgery for this condition.
- Diana and Jocelyn have been educated entirely in English and would not understand the language or culture of Guatemala and Mexico.

Most of these factors were considered by the immigration judge when he initially granted the Cabrera family cancellation of removal.

**“Enactment of the legislation I have introduced today will enable the Cabrerias to continue to make significant contributions to their community and to the United States. It is my hope, therefore, that Congress passes this private legislation, if the bill is still needed once the Ninth Circuit issues a ruling,”** Senator Feinstein said.

Private legislation is usually introduced on behalf of individuals whose compelling circumstances require Congress to act when administrative or legal remedies have been exhausted.

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